

**REMARKS**

The Office Action dated August 26, 2003, has been received and reviewed.

Claims 1-27 are currently pending and under consideration in the above-referenced application. Of these, claims 1-6, 9-14, and 17-27 stand rejected. The indication that claims 7, 8, 15, and 16 recite allowable subject matter is gratefully acknowledged.

Reconsideration of the above-referenced application is respectfully requested.

**Rejections Under 35 U.S.C. § 102**

Claims 1-6, 9-14, 17-24, and 27 stand rejected under 35 U.S.C. § 102.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single reference which qualifies as prior art under 35 U.S.C. § 102. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Anwar

Claims 1-6, 9-14, 17-24, and 27 stand rejected under 35 U.S.C. § 102(b) for reciting subject matter which is purportedly anticipated by that described in U.S. Patent 6,030,368 to Anwar et al. (hereinafter "Anwar").

Anwar describes and illustrates (*see* FIG. 2 thereof) a power syringe 50 that includes a syringe barrel 80, a plunger 82 insertable into the syringe barrel 80, and a lever 70, or handle. The lever 70 of the power syringe 50 described in Anwar includes a single member, one end of which is pivotally secured to a base 60. In addition, the lever 70 and plunger 82 are pivotally secured to one another. The base 60 is configured to be supported upon a surface (col. 7, lines 21-28), such as a tabletop, and is pivotally secured to the syringe barrel 80. The plunger 82 is forced into the barrel 80 by exerting a downward force on the lever 70. *See, e.g.*, col. 4, line 55, to col. 5, line 28; col. 6, line 63, to col. 7, line 28.

As the description of Anwar is limited to a power syringe 50 which includes a base 60 that is to be supported upon a surface and a lever 70 which is to be forced downward to force the

plunger 82 into the syringe barrel 80, it is respectfully submitted that Anwar does not expressly or inherently describe a handle which includes “a first member *configured to be held by a first part of a user’s hand*” and “a second member *configured to be held by a second part of the user’s hand*,” as recited in independent claim 1 of the above-referenced application. (Emphasis supplied). Therefore, Anwar does not anticipate each and every element of independent claim 1, as is required to maintain a rejection under 35 U.S.C. § 102(b). Thus, under 35 U.S.C. § 102(b), independent claim 1 recites subject matter which is allowable over that described in Anwar.

Each of claims 2-6, 9, and 10 are allowable, among other reasons, for depending either directly or indirectly from claim 1, which is allowable.

Claim 5 is further allowable because Anwar lacks any express or inherent description that either the base 60 or the lever 70 of the power syringe 50 described therein includes a slot through which a hinge that connects the base 60 and the lever 70 extends.

Claim 6, which depends from claim 5, is also allowable over Anwar since Anwar does not expressly or inherently describe that either the base 60 or the lever 70 of the power syringe 50 described therein includes an arcuate slot through which a hinge that connects the base 60 and the lever 70 extends.

Independent claim 11, as amended and presented herein, is also allowable over Anwar since Anwar neither expressly nor inherently describes that one of the base 60 and the lever 70 of the power syringe thereof “is configured to be held with a first portion of a hand of a user” and that the other of the base 60 and the lever 70 “is configured to be held with a second portion of the same hand . . .”

As Anwar does not anticipate each and every element of amended independent claim 11, amended independent claim 11 recites subject matter which, under 35 U.S.C. § 102(b), is allowable over the description of Anwar.

Claims 12-14 and 17-20 are each allowable, among other reasons, for depending either directly or indirectly from claim 11, which is allowable.

Claim 13 is further allowable because Anwar lacks any express or inherent description that either the base 60 or the lever 70 of the power syringe 50 described therein includes a slot through which a hinge that connects the base 60 and the lever 70 extends.

Claim 14, which depends from claim 13, is also allowable over Anwar since Anwar does not expressly or inherently describe that either the base 60 or the lever 70 of the power syringe 50 described therein includes an arcuate slot through which a hinge that connects the base 60 and the lever 70 extends.

Claim 17 is also allowable since Anwar lacks any express or inherent description of a barrel retaining member pivotally secured to the base 60 of the power syringe 50 described therein. Rather, the description of Anwar is limited to pivotally securing a syringe barrel 80 *itself* to the base 60.

Claim 19 is additionally allowable because Anwar does not expressly or inherently describe a plunger retaining member which is pivotally secured to the lever 70 of the power syringe 50 described therein. Instead, the lever 70 is configured to have a plunger 82 pivotally secured directly thereto.

Independent claim 21, as amended and presented herein, recites a method for introducing fluid into a body. The method of amended independent claim 21 includes, among other things, grasping first and second handles in a single hand to pivot the first and second handles.

Anwar, in contrast, merely describes grasping a lever 70 of a power syringe 50 to pivot the lever 70 relative to a base 60 of the power syringe 50. Thus, Anwar does not expressly or inherently describe, or anticipate, each and every element of amended independent claim 21. Therefore, it is respectfully submitted that, under 35 U.S.C. § 102(b), amended independent claim 21 is allowable over Anwar.

Each of claims 22-24 and 27 is allowable, among other reasons, for depending directly from claim 21, which is allowable.

Lane

Claims 1-6, 9-14, and 17-21 stand rejected under 35 U.S.C. § 102(b) for reciting subject matter which is assertedly anticipated by that described in U.S. Patent 5,733,258 to Lane (hereinafter "Lane").

The pistol grip syringe of Lane includes a barrel 26, a plunger rod 36 insertable within the barrel 26, and a pistol grip delivery device associated with the barrel 26 and the plunger rod 36. The pistol grip delivery device includes a main frame 8, which is pivotally secured to the barrel 26 and includes a handle 10, and a trigger 12, which is pivotally secured to the main frame 8 and which has a drag link 22 secured thereto for engaging the plunger rod 36.

Lane provides an explanation of the manner in which the pistol grip syringe operates at col. 9, lines 8-39. Basically, when the trigger 12 is depressed, the drag link 22 engages the plunger rod 36, moving forward and downward and, thus, forcing the plunger rod 36 into the barrel 26. As the trigger 12 is released, the drag link 12 moves upward and backward to disengage the plunger rod 36. This process of depressing and releasing the trigger 22 may be repeated to incrementally move the plunger rod 36 into barrel 26, thereby incrementally displacing liquid within the barrel 26.

It is clear from the description provided by Lane that Lane lacks any express or inherent description that the trigger 12 is pivotally connected to the plunger rod 36.

Thus, the description of Lane does not anticipate the recitation in independent claim 1 of a handle that includes "first member pivotally connected to [a] syringe barrel . . ." and a "second member pivotally connected to [a] plunger . . ."

Accordingly, it is respectfully submitted that, under 35 U.S.C. § 102(b), independent claim 1 recites subject matter which is allowable over that described in Lane.

Claims 2-6, 9, and 10 are each allowable, among other reasons, for depending either directly or indirectly from claim 1, which is allowable.

Claim 3 is additionally allowable since Lane does not expressly or inherently describe that the drag link 22 of the pistol grip syringe described therein, which releasably retains the plunger rod 36, is also pivotally connected to the plunger rod 36.

Claim 5 is further allowable because Lane lacks any express or inherent description that either the main frame 8 or the trigger 12 of the pistol grip syringe described therein includes a slot through which a hinge that connects the main frame 8 and the trigger 12 extends.

Claim 6, which depends from claim 5, is also allowable over Lane because Lane does not expressly or inherently describe that either the main frame 8 or the trigger 12 of the pistol grip syringe described therein includes an arcuate slot through which a hinge that connects the main frame 8 and the trigger 12 extends.

Nor does Lane anticipate the recitation in amended independent claim 11 of a handle which includes “a first member configured to be secured in pivotal relation to a syringe barrel . . .” and “a second member configured to be secured in pivotal relation to a syringe plunger . . .”

Therefore, it is respectfully submitted that, under 35 U.S.C. § 102(b), amended independent claim 11 recites subject matter which is allowable over the subject matter described in Lane.

Each of claims 12-14 and 17 is allowable, among other reasons, for depending either directly or indirectly from claim 11, which is allowable.

Claim 13 is further allowable because Lane lacks any express or inherent description that either the main frame 8 or the trigger 12 of the pistol grip syringe described therein includes a slot through which a hinge that connects the main frame 8 and the trigger 12 extends.

Claim 14, which depends from claim 13, is also allowable over Lane because Lane does not expressly or inherently describe that either the main frame 8 or the trigger 12 of the pistol grip syringe described therein includes an arcuate slot through which a hinge that connects the main frame 8 and the trigger 12 extends.

Claim 19 is additionally allowable because Lane does not expressly or inherently describe a plunger retaining member which is pivotally secured to the trigger 12 of the pistol grip syringe described therein. Instead, the trigger 12 is permanently secured directly to the plunger rod 36.

Lane also lacks any express or inherent description of “grasping a first handle pivotally associated with [a] syringe barrel and a second handle pivotally associated with a syringe plunger with a single hand to pivot [the] first handle and [the] second handle toward one another to force [the] syringe plunger into [the] receptacle of [the] syringe barrel . . .” Again, the trigger 12 of the pistol grip syringe described in Lane is not pivotally associated with the plunger rod 36 but, rather, includes a drag link 22 that engages and disengages the plunger rod 36 to incrementally “drag” the plunger rod 36 into the barrel 26.

As such, it is respectfully submitted that, under 35 U.S.C. § 102(b), the subject matter to which amended independent claim 21 is drawn is allowable over that described in Lane.

von der Decken

Claims 1-6, 9-14, and 17-21 have also been rejected under 35 U.S.C. § 102(b) for reciting subject matter which is purportedly anticipated by that described in U.S. Patent 5,336,201 to von der Decken (hereinafter “von der Decken”).

von der Decken describes a syringe-driving apparatus 10 that includes a base 36 and a lever 76 pivotally secured to the base 36. The lever is also pivotally secured to a plunger 134, while a cylinder 130 is pivotally secured to the base 36. *See* FIGs. 1 and 8. Like the power syringe 50 of Anwar, the base 36 of the apparatus 10 of von der Decken is configured to be supported by a surface, such as a tabletop. Col. 5, lines 24-33.

As von der Decken neither expressly nor inherently describes that the base 36 of the apparatus 10 described therein is configured to be held by a first portion of a user’s hand, while the lever 76 is configured to be held by a second portion of the user’s hand, von der Decken does not anticipate each and every element of independent claim 1.

Accordingly, it is respectfully submitted that, under 35 U.S.C. § 102(b), independent claim 1 is directed to subject matter which is allowable over that described in von der Decken.

Claims 2-6, 9, and 10 are each allowable, among other reasons, for depending either directly or indirectly from claim 1, which is allowable.

Claim 5 is further allowable because von der Decken lacks any express or inherent description that either the base 36 or the lever 76 of the apparatus 10 described therein includes a slot through which a hinge that connects the base 36 and the lever 76 extends.

Claim 6, which depends from claim 5, is also allowable over von der Decken since von der Decken does not expressly or inherently describe that either the base 36 or the lever 76 of the apparatus 10 described therein includes an arcuate slot through which a hinge that connects the base 36 and the lever 76 extends.

With respect to amended independent claim 11, von der Decken lacks any express or inherent description of “a first member configured to be held with a first portion of a hand of a user . . .” and “a second member configured to be held with a second portion of the same hand of the user . . .”

Thus, it is respectfully submitted that, under 35 U.S.C. § 102(b), amended independent claim 11 recites subject matter which is allowable over that described in von der Decken.

Each of claims 12-14 and 17 is allowable, among other reasons, for depending either directly or indirectly from claim 11, which is allowable.

Claim 13 is further allowable because von der Decken lacks any express or inherent description that either the base 36 or the lever 76 of the apparatus 10 described therein includes a slot through which a hinge that connects the base 36 and the lever 76 extends.

Claim 14, which depends from claim 13, is also allowable over von der Decken since von der Decken does not expressly or inherently describe that either the base 36 or the lever 76 of the apparatus 10 described therein includes an arcuate slot through which a hinge that connects the base 36 and the lever 76 extends.

Claim 17 is also allowable since von der Decken lacks any express or inherent description of a barrel retaining member pivotally secured to the base 36 of the apparatus 10 described therein. Rather, the description of Anwar is limited to pivotally securing a syringe barrel 130 directly to the base 36.

Claim 19 is additionally allowable because von der Decken does not expressly or inherently describe a plunger retaining member which is pivotally secured to the lever 76 of the apparatus 10 described therein. Instead, the lever 76 is configured to have a plunger 134 pivotally secured directly thereto.

von der Decken also includes no express or inherent description of a method for introducing fluid into a body, which method includes, among other things, grasping first and second handles in a single hand to pivot the first and second handles, as require by amended independent claim 21.

It is, therefore, respectfully submitted that, under 35 U.S.C. § 102(b), amended independent claim 21 is drawn to subject matter which is allowable over that described in von der Decken.

In view of the foregoing, it is respectfully requested that the 35 U.S.C. § 102(b) rejections of claims 1-6, 9-14, 17-24, and 27 be withdrawn.

#### **Rejections Under 35 U.S.C. § 103(a)**

Claims 25 and 26 stand rejected under 35 U.S.C. § 103(a) for reciting subject matter which is assertedly unpatentable over that taught in Anwar, in view of teachings from U.S. Patent 4,715,378 to Pope et al. (hereinafter "Pope").

M.P.E.P. § 706.02(j) sets forth the standard for a rejection under 35 U.S.C. § 103(a):

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).



Claims 25 and 26 are both allowable, among other reasons, for respectively depending directly and indirectly from claim 21, which is allowable.

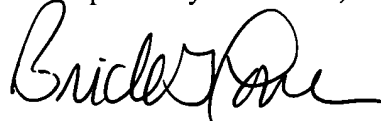
**Allowable Subject Matter**

The indication that claims 7, 8, 15, and 16 recite allowable subject matter is noted with appreciation. None of these claims has been amended to independent form, however, as it is believed, for the reasons provided herein, that the claims from which they depend are also allowable.

**CONCLUSION**

It is respectfully submitted that each of claims 1-27 is allowable. An early notice of the allowability of each of these claims is respectfully solicited, as is an indication that the above-referenced application has been passed for issuance. If any issues preventing allowance of the above-referenced application remain which might be resolved by way of a telephone conference, the Office is kindly invited to contact the undersigned attorney.

Respectfully submitted,



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